IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1751 OF 2005

Arun Kumar Goel ...Petitioner

Versus

Vapra Exports Pvt. Ltd. & Ors ...Respondents

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Mr. S.V. Marwadi, Advocate for Petitioner

Mr. Rajesh More, A.P.P. for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 14TH JULY, 2005

P. C.:-

1. Heard the learned advocate for the petitioner and the learned A.P.P. for the State.

2. The petitioner has prayed for quashing of proceedings in Case No. 998/S/2003 which is pending in the Court of learned Special Metropolitan Magistrate, Court Room No.25, Small Causes Court, Mumbai. In the said case, process has been issued against the petitioner under Section 138 of Negotiable Instruments Act. The learned advocate for the petitioner submitted that the learned Magistrate committed an error in issuing process and the said process deserves to be set aside. If the process issued against the petitioner is set aside, the

proceedings in respect of the petitioner would come to an end.

3. For the reasons recorded in my order dated 13th June, 2005 passed in Criminal Writ Petition No.213 of 2005 and order dated 21st June, 2005 passed in Criminal Application No.550 of 2005, the petitioner has an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my opinion, it would be appropriate that the petitioner prefers revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the petitioner to prefer revision before the concerned Sessions Court. The learned advocate for the petitioner states that the necessary revision would be preferred within a period of five weeks from today. In view of this statement, the trial Court shall not proceed with the trial for a period of five weeks from today.

5. It is also prayed that by order dated 6.6.2005, the learned Magistrate has issued non bailable warrant against the petitioner and the said N.B.W. be quashed. I am not inclined to quash the N.B.W. as in my view, it would be appropriate that the petitioner prefers an application before the

Magistrate for setting aside the said N.B.W. In order to enable the petitioner to take necessary steps for setting aside the N.B.W. before the Magistrate, the said N.B.W. are stayed for a period of five weeks from today.

6. On the necessary revision being preferred by the petitioner before the concerned Sessions Court, the concerned Sessions Court shall dispose of the same on merits after hearing necessary parties.

7. Office to issue an authenticated copy of this order to the parties.

8. Writ Petition is disposed of.

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